

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

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HY-KO PRODUCTS COMPANY,

Plaintiff,

v.

THE HILLMAN GROUP, INC.,

Defendant.

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) CIVIL ACTION NO.  
) 5:08-CV-1961 (Dowd)  
) Judge Dowd  
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**HILLMAN'S RESPONSE TO HY-KO'S MOTION FOR LEAVE TO  
AMEND COMPLAINT *INSTANTER***

Defendant The Hillman Group, Inc. ("Hillman") does not oppose Hy-Ko's Motion For Leave To Amend Complaint *Instanter* filed on January 28, 2009. Hillman notes, however, that the proposed amended Complaint attached to the Motion should be styled Amended Complaint For Declaratory Judgment Of Noninfringement, Invalidity, And Unenforceability Of Patent No. 7,114,894, when it is filed. The parties have discussed this issue, and Hy-Ko has agreed to style its subsequent filing as an Amended Complaint.

Also, because of the addition of Aurora Properties as a co-plaintiff in this action, Hillman respectfully requests that the Court also grant Hillman leave to include a patent infringement counterclaim against Aurora Properties. Hillman suggests that it may be more efficient to resolve this issue now, as opposed to filing a separate motion for leave. The parties have discussed this issue, and Hy-Ko has agreed to the inclusion of a patent infringement

counterclaim against Aurora Properties. Therefore, Hillman respectfully requests that the Court grant Hillman leave to include a patent infringement counterclaim against Aurora Properties.

Dated: February 9, 2009

Respectfully submitted,

/s/ Daniel F. Gourash

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*Attorneys for Defendant  
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**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing HILMAN'S RESPONSE TO HY-KO'S MOTION FOR LEAVE TO AMEND COMPLAINT *INSTANTER* was filed electronically on this 9th day of February, 2009. Parties will receive notice through the Court's electronic filing system.

/s/ Daniel F. Gourash

One of the Attorneys for Defendant  
The Hillman Group, Inc.